



# புதுச்சேரி மாநில அரசிதழ்

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### பொருளடக்கம்

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**GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT**

(G. O. Rt. No. 115/Lab./AIL/T/2017,  
Puducherry, dated 10th July 2017)

**NOTIFICATION**

Whereas, an Award in I.D (T) No.15/2012, dated 29-5-2017 of the Industrial Tribunal, Puducherry in respect of the industrial dispute between the management of M/s. Anglo French Textiles, Pondicherry and Thiru M. Chandrasekaran, Puducherry over seniority and pay fixation.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

**E. VALLAVAN,**  
Commissioner of Labour-cum-  
Additional Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT AT PUDUCHERRY**

*Present : Thiru G. THANENDRAN, B.COM, M.L.,  
Presiding Officer,*

*Monday, the 29th day of May, 2017*

**I.D. (T) No. 15/2012**

M. Chandrasekaran,  
No. 12, 'C' Block, II Floor,  
Chanakya Apartment,  
Sithankudi,  
Puducherry-605 013.

.. Petitioner

*Versus*

The Managing Director,  
M/s. Anglo French Textiles,  
Mudaliarpet,  
Puducherry.

.. Respondent.

This industrial dispute coming up before me for final hearing on 5-5-2017 in the presence of the petitioner appeared in person, Thiru B. Mohandoss, Advocate for the respondent, upon hearing and upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

**AWARD**

1. This industrial dispute has been referred by the Government as per the G.O. Rt. No. 110/AIL/Lab./J/2012, dated 10-7-2012 for adjudicating the following:

(i) Whether the dispute raised by the petitioner Thiru M. Chandrasekaran against the management of M/s. Anglo French Textiles, Puducherry over claim of higher category and fixing of higher pay than his juniors based on his seniority is justified?

(ii) If justified, what relief the petitioner is entitled to ?

(iii) To compute the relief if any awarded in terms of money if, it can be so computed?

2. The averments in the claim statement of the petitioner, in brief, are as follows :

(i) The petitioner has joined in the respondent Mill in the year 1981 and he was in service as a permanent employee of the Mill which was informed by the Mill for the petition filed under the Right to Information Act and he was not given any promotion for about 30 years though he was performing the work of Fitter in his Department and his Basic Salary was revised as very low in the month of October, 2009 which is objected by him and he has asked for the basic pay of 3,530-60-5,930 in the year 2009 and has further stated that his junior was getting salary more than the salary of him for which he has given a letter on 29-9-2011 stating the above anomaly in the Pay Scale and that the petitioner has asked for promotion from the year 1999 and that therefore, he raised the industrial dispute against the management of Anglo French Textiles, Puducherry over the claim of higher category and fixing of higher pay than his juniors based on his seniority.

3. The brief averments in the counter and additional counter filed by the respondent are as follows:

(i) The respondent stated that as per section 2A of Industrial Disputes Act, 1947 an individual workman cannot raise an industrial dispute except in case of discharge, dismissal, retrenchment or otherwise termination and hence, the petitioner cannot raise the above industrial dispute which relates to claim for pay fixation based on its alleged seniority, unless the dispute is sponsored by a trade union for workmen or in the alternative espoused by a large majority of workmen and that the dispute raised by the petitioner is not an industrial dispute

as defined by section 2(K) of the Industrial Disputes Act, 1947 and as such this Tribunal cannot entertain the claim made by the petitioner for want of jurisdiction.

(ii) It is further stated that as per records, the petitioner was appointed as casual substitute workman in the Mill and as per the practice followed by the respondent Mills a casual substitute workman (working under card system) is terminated from service after 3 months and he can seek re-employment only on renewal of his card and in tune with the above practice, on 1st January, 1990 the petitioner, working as casual substitute in the Spinning Department, 'B' shift ('C' Unit) was transferred to weaving Department 'C' shift ('C' unit) and subsequently in September, 1990, the petitioner transferred to weaving Department 'A' shift, and according to the above practice the petitioner was employed till 1-6-1991 and that on 1-6-1991, the petitioner was appointed as substitute workman and later on 1-2-1993, the petitioner was transferred from Weaving Department 'A' shift to weaving maintenance Department and from that day onwards the petitioner has been working as Beam Transporter and pinning coolie in the skill code of SS2 in weaving maintenance Department in the Pay Scale of 3,300-50-5,300 and his code No. is 10285 and on the other hand the skill code SK2 for the fitter category.

(iii) It is further stated that as per the revised wages determined in the year 2009, the Beam transporter category comes under S.S. (semi skilled) 2 as per G.O. and the wages due to the petitioner has been paid as per the I.D.A wages and that prior to the revision of wages in October, 2009 as per G.O under the I.D.A. wage rates, the management paid the wages according to their categories (without change) to all the workman. But, when the I.D.A wage revision was implemented, the workman were categorized as skilled 1, skilled 2, skilled 3, skilled 4, semi-skilled 1, semi-skilled 2, semi-skilled 3, semi-skilled 4, unskilled 1 and unskilled 2 according to the nature and conditions of employment and were paid the corresponding wages and the same has been followed till date and that the Beam transporter post was classified as semi-skilled 2 and wages corresponding to the category has been paid to the petitioner from then onwards, but, the petitioner wants wages determined for skilled-2 category of employment which corresponds to the

post of Loom-tackler and that all the persons employed as Loom-tacklers in the respondent Mills have undergone Fitter training and after the completion of the training have been employed as Fitters for the last several years but, the petitioner has not undergone Fitter training and he has also not worked as Fitter and therefore, the petitioner is not entitled to claim the wages due to Fitter (in the category of loom-tackler) without occupying the post of Fitter.

(iv) It is further stated that originally the petitioner was working in Spinning Department ('C' Unit) and having found the situation of sending out for "no work" got transferred to Weaving Department ('C' unit) as he came to know of the employment opportunities as "Sundries" and he also got trained in sundries work and he has worked as sundries and that prior to the notification of I.D.A revised wages by the Government in 2009, there was no opportunity for promotion for persons employed as sundries category and as for as Weaving Department 'C' Unit is concerned, only persons occupying the posts of Helper, Loom-tackler, Beam-Gaiter, Asst. Jobber and Jobber - in the above line of promotion were having promotional chances. However, as per the revised I.D.A wage structure the petitioner has got promotional chances in his post of Beam transporter in weaving maintenance Department and the petitioner will be given promotion as and when vacancies arise and according to his qualification. Promotion to the post of Loom-tackler cannot be given to the petitioner at the first instance and the promotion to the post of Loom-tackler can be given only by way of step by step and for obtaining the post of Loom-tackler, the petitioner has to cross four stages of promotion.

(v) It is further stated that based on his seniority in Sundries category and in the post of Beam transporter the petitioner cannot claim promotions and as per the promotion policy, merit also plays an important role and for the post of Loom-tackler Fitter training is very important and the petitioner cannot ignore the fact of several persons in the Weaving Department who are seniors to the petitioner but, working in lesser category and on low wages when compared to the petitioner. The persons bearing code nos. 11785 and 11786 have completed ITI course, worked as Weavers, have undergone Fitter training and then got appointment in the category of

Loom-tackler and there is no justification for the petitioner to expect promotion to the post of Loom-tackler without ITI qualification and Fitter training, solely based on seniority.

4. In the course of enquiry, no oral evidence was let in by the petitioner and no document was filed by him even after granting sufficient opportunities to him to produce evidence. On the side of the respondent RW. 1 was examined and Ex. R1 to Ex. R4 were marked.

5. The point for consideration is:

Whether the dispute raised by the petitioner against the respondent Mill over the claim of higher category and fixing of higher pay than his juniors based on his seniority is justified or not ?

6. Heard. The learned Counsel who appeared for the respondent argued that the petitioner has not let any evidence and no documents were marked and hence, he was not subjecting himself for cross examination and nothing is before this Court to decide the case of the petitioner and that therefore, the petitioner has utterly failed to establish his case and therefore, the claim petition is to be dismissed and the reference is to be closed.

7. From the pleadings of both the parties the following facts are admitted by them. The petitioner Chandrasekaran was working at the respondent Mill from the year 1981 and he was serving at the maintenance Department in the Pay Scale of ₹ 3,300-50-5,300 and the promotion was not given to him and subsequently the petitioner raised the industrial dispute before the Conciliation Officer on 19-8-2011 and the conciliation was failed and this reference was sent to this Court for adjudicating the said issue.

8. It is the evidence of RW. 1 that the petitioner was working as a Casual substitute in the Spinning Department from 1st January, 1990 and he was transferred to Weaving Department 'C' shift and subsequently in 1990, the petitioner was transferred to Weaving Department 'A' shift and he was employed till 1-6-1991 and thereafter, he was appointed as substitute workman and later on 1-2-1993 the petitioner was transferred from Weaving Department 'A' shift to weaving maintenance Department and from that day onwards the petitioner has been working as Beam Transporter and pinning coolie in the code of SS2 in weaving maintenance department in the Pay Scale of ₹ 3,300-50-5,300 and his code no is 10285 and all the persons employed as Loom-tacklers in the respondent

mills have undergone Fitter training and after the completion of training they have been employed as Fitters for the last several years and this petitioner has not undergone fitter training and he was also not worked as Fitter and therefore, he is not entitled to claim the wages in the category of Loom-tackler without getting the post of Fitter.

9. In support of its case, the respondent has exhibited Ex. R1 to Ex.R4, Ex.R1 is the copy of the reply submitted by the respondent management before the Labour Officer (Conciliation) to the representation submitted by the petitioner wherein, it has been stated that the petitioner was not working in the higher category. Ex. R2 is the letter given by the petitioner to the Labour Officer (Conciliation) on 29-9-2011. Ex. R3 is the letter given by the respondent management to the Labour Officer (Conciliation) on 31-10-2011. Ex. R4 is the copy of the remarks furnished by the Weaving Department to the petitioner on 11-12-2012. RW.1 has not been cross examined by the petitioner even after giving sufficient opportunities.

10. To establish his case, the petitioner has not come forward to let any evidence and has not exhibited any documents to prove the allegation that the respondent has failed to give sufficient higher category of promotion and to fix the right salary and that therefore, the petitioner has failed to establish his case as claimed in the claim petition by adducing sufficient evidence and therefore, it is just and necessary that the industrial dispute raised by him before the Conciliation Officer which was referred by the Government to this Court is to be decided against him and that therefore, this Court has held that the industrial dispute raised by the petitioner against the respondent management over the claim of higher category and fixing of higher pay than his juniors a based on his seniority is not justified and hence, the petition is liable to be dismissed.

11. In the result, the petition is dismissed. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 29th day of May, 2017.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Puducherry.

*List of petitioner's witness:*

Nil

*List of petitioner's exhibits:*

Nil

*List of respondent's witness:*

RW.1 — 21-3-2016 B. Pragadeeswaran

*List of respondents's exhibits:*

Ex.R1 — 19-8-2011 Copy of the reply given by the respondent management before the Labour Officer (Conciliation) to the representation submitted by the petitioner.

Ex.R2 — 29-9-2011 Copy of the letter given by the petitioner to the Labour Officer (Conciliation) Puducherry.

Ex.R3 — 31-10-2011 Copy of the letter given by the respondent management to the Labour Officer (Conciliation) Puducherry.

Ex.R4 — 11-12-2012 Copy of the remarks furnished by the respondent Weaving Department to the petitioner.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Puducherry.

**GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT**

(G. O. Rt. No. 119/Lab./AIL/T/2017,  
Puducherry, dated 12th July 2017)

**NOTIFICATION**

Whereas, an Award in I.D (T) No.16/2012, dated 29-5-2017 of the Industrial Tribunal, Puducherry in respect of the industrial dispute between the management of Automotive Coaches and Components Limited, (ACCL), Puducherry and PL Haulwel Trailers Labour Union (AICCTU), Puducherry over non-production of balance-sheet for the year 2007-08, 2008-09, 2009-10 and 2010-11, non-payment of bonus and *ex gratia* @ 20% for the year 2010-11 without any ceiling;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G. O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

**A. RAJARATHINAM,**  
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT AT PUDUCHERRY**

*Present* : Thiru G. THANENDRAN, B.COM, M.L.,  
Presiding Officer.

*Monday, the 29th day of May 2017*

**I.D. (T) No. 16/2012**

The President,  
PL Haulwel Trailers Labour  
Union (AICCTU),  
No.22, 3rd Cross Street,  
Sithankudi, Puducherry . . Petitioner

*Versus*

The Managing Director,  
M/s. Automotive Coaches  
and Components Limited,(ACCL),  
PL Haulwel Trailers Division,  
No.79-19, Industrial Area,  
Sedarapet, Puducherry-605 111 . . Respondent

This industrial dispute coming up before me for final hearing on 10-5-2017 in the presence of Thiru. M. Ganapathy, Advocate for the petitioner and G. Krishnan, Advocate for the respondent on record and subsequently when the case was posted for cross examination of PW.1 the respondent being called absent and set-*ex parte* upon hearing the petitioner and perusing the case records, after having stood over for consideration till this day, this Court passed the following:

**AWARD**

1. This industrial dispute arises out of the reference made by the Government of Puducherry *vide* G. O. Rt. No. 115/AIL/Lab./J/2012, dated 13-7-2012 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent *viz.*,

(i) Whether the dispute raised by PL Haulwel Trailers Labour Union (AICCTU) against the management of M/s. Automotive Coaches and Components Limited, Puducherry over non-production of balance-sheet for the year 2007-2008, 2008-2009, 2009-2010 and 2010-2011, non-payment of bonus and *ex gratia* @ 20% for the year 2010-2011 without any ceiling are justified ?

(ii) If justified, what relief the union workmen are entitled to ?

(ii) To compute the relief, if any, awarded in terms of money if, it can be so computed?

2. *The averments in the claim statement filed by the petitioner are as follows :*

The petitioner stated that they have made a demand for 20% bonus and 20% *ex gratia* for the year 2007-2008, 2008-2009, 2009-2010 and 2010-2011 for non-payment of bonus and *ex gratia* each @ 20% and inspite of repeated demands the management bluntly refused to furnish the balance-sheet of the company for the abovesaid periods and the management without producing any records or balance-sheet simply alleging that there is loss for the abovesaid period and that there was maximum production and profit to the company and obviously for this reason only the management is avoiding to produce the balance-sheet for the abovesaid period and that the management failed to note if, there is surplus allocable profits it can be carried over to the next year for paying maximum of 20% bonus to the employees to encourage them and also failed to note that the payment of *ex gratia* of 20% is also a legally enforceable custom in the industrial area for several decades. Thus, the management is evading to pay 20% *ex gratia* also without any justification and that similar industries involving very heavy manual and skilled labour are paying 20% bonus with 20% *ex gratia* and the management failed to note that the employees have worked very hard and brought out a maximum production to the respondent company for the relevant period and also failed to note that similar industries existing in the locality are paying 20% bonus with 20% *ex gratia* every year to all its employees and the management is also aware about this fact and even after knowing this situation the management is refusing to concede the just demands of the employees and

therefore, prayed to pass an Award directing the respondent to pay 20% bonus and 20% *ex gratia* to the petitioner union members for the years 2007-2008, 2008-2009, 2009-2010 and 2010-2011.

3. *The averments in the counter filed by the respondent are as follows :*

(i) The respondent stated that the claim statement made by the petitioner union is false and stated that during the relevant period only one union namely, Sedarapet Industries Pattali Workers Union was the recognized and sole representative of the workmen and the balance sheet for every financial year was provided to them and that the workmen were paid ₹ 3,500 as bonus and ₹ 500 as good will amount for the financial year 2007-2008, ₹ 3,500 as bonus for the financial years 2008-2009, 2009-2010 and 2010-2011 and ₹ 1,500 as *ex gratia* for the financial year 2010-2011 and these payments were made adhering to the provisions of the Payment of Bonus Act and that the bonus and other payment as mentioned above were accepted by the union and workmen and all the workmen have received the same unconditionally and that the management and the said Sedarapet Industries Pattali Workers Union have entered into a settlement under section 18(1) of the Industrial Disputes Act, 1947 on 2-2-2011 in respect of revision of wages and other benefits and the petitioner union emerged only thereafter and from its inception till date it remains only as a minority and unrecognized union.

(ii) It is further stated that *ex gratia*/good will payment are made in the absolute discretion of the management and there is no criteria or guidelines for the same and the provisions of the Payment of Bonus Act do not provide for payment of *ex gratia* and claiming of *ex gratia* as a matter of right is illegal and that the bonus paid for the financial years 2007-2008, 2008-2009, 2009-2010 and 2010-2011 was in accordance with law and this industrial dispute was raised by the petitioner union due to inter union rivalry and it is not open to the petitioner union to question the bonus paid and received by all the workmen unconditionally and that the respondent company has been incurring huge losses year after year and the company has accumulated loss to the tune of ₹ 94.08 crores as on 31st March, 2014 and ₹ 104.50 crores as on 31-3-2015 and that due to lack of orders, lower production/sales the

company is struggling to meet even the basic commitment of payment of salaries and wages and the company had become economically and commercially non-viable due to its huge accumulated losses and that the claim of the petitioner union for payment of 20% bonus and 20% *ex gratia* for the financial years 2007-2008, 2008-2009, 2009-2010 and 2010-2011 is wholly unjustified, unreasonable, baseless and contrary to the provisions of the Payment of Bonus Act and do not deserve any consideration either factually or legally and prayed to dismiss the claim petition.

4. Despite of opportunity given to the respondent management for cross examination of WW.1, the respondent called absent and no representation for respondent and hence, the respondent was set *ex parte*.

5. On the side of the petitioner, the petitioner was examined himself as WW.1 and no exhibits were marked.

6. *The point for determination is:*

Whether the dispute raised by PL Haulwel Trailers Labour Union (AICCTU) against the management of M/s. Automotive Coaches and Components Limited, Puducherry over non-production of balance-sheet for the year 2007-2008, 2008-2009, 2009-2010 and 2010-2011, nonpayment of bonus and *ex gratia* @ 20% for the year 2010-2011 without any ceiling are justified or not.

7. Heard. It is the evidence of the petitioner WW.1 that the petitioner union had made demand of 20% bonus and 20% *ex gratia* for the year 2007-2008, 2008-2009, 2009-2010 and 2010-2011 for non-payment of bonus and *ex gratia* each @ 20% and that the respondent management has refused to furnish the balance sheet of the company for the abovesaid period inspite of repeated demands and simply alleged that there is a loss for the abovesaid periods and though there was maximum production and profit of the company and that therefore, the management is avoiding to produce the balance-sheet. However, though petitioner union has let oral evidence, no exhibits were marked on the side of the petitioner.

8. From the evidence of WW.1 and records, it is learnt that the petitioner union has made a demand with the respondent management in respect of bonus and *ex gratia* amount for which they have raised the industrial dispute before the Conciliation Officer and

the conciliation proceedings were failed and that therefore, this reference has been made to this Court to decide whether the dispute raised by the petitioner union over the non-production of balance sheet for the year 2007-2008, 2008-2009, 2009-2010 and 2010-2011, non-payment of bonus and *ex gratia* @ 20% for the year 2010-2011 are justified.

9. On the other hand, the respondent has not let any evidence since he was set *ex parte*. Though the respondent has appeared and filed its counter, no evidence was let in by them, to disprove the case of the petitioner. Considering the fact that the petitioner has established its case that the respondent management has failed to produce the balance-sheet for the year 2007-2008, 2008-2009, 2009-2010 and 2010-2011 and the petitioner union has demanded bonus and *ex gratia* for the year 2010-2011 at the rate of 20%, it is to be held that dispute raised by the petitioner union is justified and the petition filed by the petitioner union is liable to be allowed.

10. In the result, the petition is allowed and Award is passed directing the respondent to pay 20% bonus and 20% *ex gratia* for the year 2010-2011 to the petitioners as claimed by the petitioner union. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the Open Court on this the 29th day of May, 2017.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Puducherry.

*List of petitioner's witness:*

WW1 — 22-2-2016 — Pandi

*List of petitioner's exhibits:* Nil.

*List of respondent's witness:* Nil.

*List of respondent's exhibits :* Nil.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Puducherry.